

October 1, 2002

## ***SBAExpress* PROGRAM GUIDE**

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## 1. WHAT IS *SBAExpress*?

### A. Background

*SBAExpress*, formerly *FA\$TRAK*, was established as a pilot program with 18 lenders on February 27, 1995. Following a program evaluation, on October 1, 1998, *SBAExpress* was revised and expanded to additional lenders and extended as a pilot into FY 2002. On October 22, 2001 the pilot was extended until July 1, 2002. In July of 2002, *SBAExpress* was revised and enhanced to significantly increase the number of small loans approved by the Agency and to increase the number of lenders participating in the program. The program was also extended as a pilot until September 30, 2005.

*SBAExpress* was originally conceived within the context of diminishing SBA personnel resources and increasing Agency loan demand. It was designed to leverage private sector resources by transferring additional authority and autonomy to selected SBA lenders. It was implemented as a pilot to test the implications of that transfer on the Agency's portfolio. The program was also developed to: (1) Increase the Agency's effectiveness in delivering financial assistance to the Nation's small business community; (2) Increase the efficiency and reduce the costs of processing SBA loans for both the Agency and its lending partners; (3) Reduce required SBA paperwork and procedures to further streamline the Agency's loan approval process; and (4) Encourage more lenders to participate in SBA loan programs.

The program reduces the number of government mandated forms and procedures and streamlines the processing and reduces the cost of smaller, less complex SBA loans. The program allows lenders to utilize, to the maximum extent possible, their respective loan analyses, procedures, and documentation. Lenders can thus use their own application forms, internal credit memoranda, notes, collateral documents, servicing documentation, and liquidation documentation. However, in using their documents and procedures, lenders must follow their established and proven internal credit review and analysis procedures used for their non-SBA guaranteed commercial loans. In return for the expanded authority and autonomy provided by the program, lenders agree to accept a maximum SBA guaranty of 50 percent.

To further reduce program costs, and to ensure program consistency, the current processing of *SBAExpress* loan applications has generally been centralized in SBA's processing center in Sacramento while loan purchases have generally been centralized in SBA's Fresno and Little Rock Servicing Centers. The Sacramento Center reviews the application for completeness and issues an SBA loan number, generally within 24 hours.

### B. July 2002 Revisions to *SBAExpress*

Following extensive discussions with SBA's lenders and field offices, the Agency reevaluated the *SBAExpress* program and determined that the cost of booking small SBA loans represented a continuing impediment to the SBA's substantially increasing its numbers of small loans. As a result, the Agency instituted several changes and enhancements to *SBAExpress*, which also includes the subprogram Export Express. The changes were designed to reduce and consolidate SBA paperwork and further streamline the program. The Agency also developed several incentives designed to make the *SBAExpress* loan product more attractive and more cost effective for lenders. These changes are summarized as follow:

- The maximum loan amount for *SBAExpress* and Export Express has been increased to \$250,000 (from \$150,000).
- More SBA lenders are eligible for the program, specifically SBA lenders previously not meeting *SBAExpress*'s minimum SBA loan volume requirements will be eligible. (These lenders must continue to meet several performance criteria including acceptable currency in its SBA portfolio, timely 1502 reporting, etc.)
- Many lenders not currently participating with SBA are eligible, if they meet certain proficiency qualifications, which are further described below in Section 2 B.
- Lenders are allowed to charge up to 6.5 percent over the Prime rate for loans of \$50,000 or less and up to 4.5 percent over the Prime rate for loans over \$50,000. However, if SBA purchases its guaranty after default, the Agency will pay interest to the lender only up to the SBA standard 7(a) maximum for any time period following the request for purchase.
- SBA will expedite the purchase of all *SBAExpress* loans where liquidation is likely to be protracted, the remaining loan balance is under \$50,000, or the loan is an Export Express loan.
- Qualified lenders may be authorized to make eligibility determinations.

## 2. HOW DOES A LENDER BECOME AN *SBAExpress* LENDER?

### A. Existing SBA Lenders

For existing SBA lenders, the standards for participation in *SBAExpress* are whether the lender:

- (1) Can process, make, close, service, and liquidate SBA loans;
- (2) Has a satisfactory performance history with SBA, including acceptable currency and default rates;
- (3) Is in compliance with applicable SBA statutes, regulations, and policies;
- (4) If reviewed by SBA, has received an acceptable rating in its last review. (As circumstances warrant, the Agency may require a lender review and an acceptable rating before a lender can participate in *SBAExpress*.);
- (5) Is current in filing SBA required 1502 reports;
- (6) Is current in remitting required guarantee and servicing fees;
- (7) Has at least an 85 percent currency rate on its SBA 7(a) portfolio (excluding *CommunityExpress* loans) for the last 3 complete fiscal years plus the elapsed portion of the current fiscal year (lenders achieving at least an 85 percent currency rate may be approved for up to a 1 year term, while lenders achieving a 90 percent currency rate may be approved for up to a 2 year term.) (For SBA lenders with less than 3 years of SBA lending experience/data, the Agency may consider data over a lesser period of time.);
- (8) For lenders regulated by one of the federal/state oversight authorities, is in good standing with their primary regulator and currently has no enforcement actions or agreements that are unacceptable to SBA; and
- (9) Has received no major substantive objections from its Lead SBA Office. (The Lead SBA Office is generally that SBA district office where the headquarters of the lender is located and which has oversight responsibility for the lender.)

Currency in the lenders' SBA portfolio is a particularly critical consideration in the *SBAExpress* approval process. However, the Agency recognizes that due to mergers and acquisitions in the banking industry, changes in SBA's management information systems, and other factors, there may occasionally be discrepancies between currency figures developed by individual lenders and

the currency figures developed by SBA for those same lenders. Lenders that identify significant differences between the currency rates developed by the lender and those developed by SBA (that are not related to lack of accurate reporting via SBA's 1502 loan performance tracking system) may follow-up with the Sacramento Processing Center to identify the source of those discrepancies and to correct any inaccuracies.

An SBA lender that wishes to participate in *SBAExpress* may send a request in writing the Director, Sacramento Loan Processing Center, 501 I Street, Suite 12-100, Sacramento, CA 95814-2322 or fax a request to (916) 930-2406 with an information copy to its Lead SBA Office.

When an SBA field office nominates a lender for PLP status, it also may nominate the lender for *SBAExpress* status. When a holding company with a PLP subsidiary requests an extension of PLP status to a non-PLP subsidiary, it may also request *SBAExpress* status for the non-PLP subsidiary. The nomination or request must include documentation that the lender has met the *SBAExpress* participation requirements.

When a lender receives a new PLP Agreement because of its acquisition of, or merger with a PLP lender, it will also receive a new *SBAExpress* Agreement (attached as Appendix I) if the acquired or merged PLP lender had *SBAExpress* status.

#### B. Lenders Not Currently Participating in SBA's Loan Programs

Lenders not currently participating with the SBA must meet the Agency's lender requirements as set forth in subpart D of SOP 50-10(4) and must become an approved SBA lender before participating in *SBAExpress*. (An application for *SBAExpress* authority may be made simultaneously with the application for SBA lender authority.) The Lead SBA Office will process all applications for SBA lending authority.

Applicants for *SBAExpress* program authority must:

- (1) Have significant experience processing smaller size business loans;
- (2) Be in good standing with its primary federal/state regulator and currently have no enforcement actions or agreements that are unacceptable to SBA;
- (3) If a bank, thrift institution or other lender, show at least 20 commercial or business loans for \$50,000 or less outstanding at its most recent fiscal year end;
- (4) If an institution other than a bank or thrift, show at least 20 commercial or business loans for \$50,000 or less outstanding at its most recent fiscal year end statements;
- (5) Have received appropriate training on SBA's policies and procedures; and
- (6) Have no major substantive objections from the Lead SBA Office.

Lenders not currently participating in SBA's loan programs that are approved for *SBAExpress* will be limited to an initial *SBAExpress* term of 1 year. Also, due to the potential broad reach of their marketing and promotional practices, many of the prospective new SBA lenders could generate significant volumes of SBA loans. As a result, SBA may limit new SBA lenders to a yearly maximum of \$25 million of *SBAExpress* lending authority in their initial years of participation. This will allow SBA to analyze the underlying quality of the lenders' *SBAExpress* portfolios and the implications for the Agency's lending authority. During this initial period, the Agency will conduct a review of the lenders' operations and assess their performance. The Office of Financial Assistance (OFA) may thereafter authorize higher volumes as appropriate based on the results of the lender review, performance data, available SBA 7(a) authority, and

other factors.

### C. Participation Process

The Sacramento PLP Center (Center) gathers the information relevant to a lender's participation request, analyzes it, and sends it with a recommendation to SBA's Associate Administrator for Financial Assistance (AA/FA). The AA/FA, or designee, reviews the application, makes a final decision, and forwards that decision to the Center. The Center notifies the lender of the decision and, if participation is approved, the Center sends the lender an *SBAExpress* Agreement to sign and return and instructions for submitting *SBAExpress* loans. The lender must sign and return the agreement to the Center before the lender's *SBAExpress* status is effective. If the lender is PLP, the term of *SBAExpress* status, when possible, will be tied to the lender's remaining PLP term.

#### 3. WHERE MAY THE LENDER MAKE *SBAExpress* LOANS?

*SBAExpress* lenders may make *SBAExpress* loans in any area of the country. However, the Agency does expect *SBAExpress* lenders to be mindful of the critical need to adequately service any approved loans and maintain relationships with the communities and the SBA field offices where it offers the program.

#### 4. HOW WILL SBA RENEW THE LENDER'S *SBAExpress* STATUS?

The Center will automatically start the renewal process a few months prior to the expiration of a lender's *SBAExpress* status. The Center will contact the lender and ask it to certify as to whether it currently is, or in the past two years has been, subject to an enforcement action by or any formal or informal agreements with its state or federal regulators. The Center will also contact the lender's Lead SBA Field Office, the SBA's Loan Servicing Centers, and field office(s) covering the territory where the lender generates significant numbers of SBA loans for information on the lender's proficiency; its currency, loss, etc. rates; its adherence to SBA policies and procedures; and other information. The Center gathers the information relevant to a lender's renewal, analyzes it, and sends it with a recommendation to the AA/FA. The AA/FA or designee reviews the renewal, makes a final decision, and forwards that decision to the Center.

Lenders that have participated in *SBAExpress* for 2 years or more may be renewed in the program for a term up to 2 years, but the AA/FA may renew for less than 2 years if lender or program circumstances warrant. Lenders participating in *SBAExpress* for less than 2 years may be renewed in *SBAExpress* for an additional year and may be renewed for up to 2 years thereafter.

In renewing a lender and determining its renewal term for *SBAExpress*, the AA/FA or designee will consider whether the lender:

- (1) Can process, make, close, service, and liquidate SBA loans;
- (2) Has a satisfactory performance history with SBA, including acceptable default and currency rates;
- (3) Is in compliance with applicable SBA statutes, regulations, and policies;
- (4) Has received an acceptable rating as the result of an SBA administered review;
- (5) Is current in filing SBA required performance data (currently provided via the SBA's 1502 reporting system);

- (6) Is current in remitting required guarantee and servicing fees;
- (7) For lenders regulated by one of the federal/state oversight authorities, is in good standing with their primary regulator and currently has no enforcement actions or agreements that are unacceptable to SBA;
- (8) Has received no major substantive objections regarding renewal from field office(s) covering the territory where the lender generates significant numbers of SBA loans; and
- (9) Has actively used the *SBAExpress* program. (“Actively used” is defined as the lender having processed at least three *SBAExpress* loans per year.)

The Center notifies the lender of the AA/FA’s decision and, if the renewal is approved, the Center sends the lender a new *SBAExpress* Agreement to sign. The lender must sign and return the agreement to the Center before the lender’s *SBAExpress* renewal is effective. (Agreements must be signed and returned to the Center within 60 days of receipt or a new application to the program will be required.) If the renewal is not approved, the lender will be notified as to the reason(s), and it may not make *SBAExpress* loans after its *SBAExpress* status ends.

If the lender wants to re-apply for *SBAExpress* status after its renewal request is declined, it must wait at least one year from the decline decision before reapplying for *SBAExpress* status. If the only cause for non-renewal was failure to meet the currency rate requirement, the lender may re-apply to the Center for *SBAExpress* status as soon as its currency rate satisfies the SBA requirement, even if this is less than 1 year.

## 5. WHAT ARE THE REQUIREMENTS OF *SBAExpress* LOAN PROCESSING?

SBA business loan eligibility, policy, and procedures apply to *SBAExpress* loans and the *SBAExpress* lender must apply all SBA business loan requirements, including those in the Small Business Act, 13 CFR Parts 120 and 121, and SBA Standard Operating Procedures (SOPs 50 10, 50 50, and 50 51), unless specifically identified as inapplicable by this Guide. Also, due to their inherent complexity or other issues, certain types of loans, loan programs, and businesses are not eligible for *SBAExpress*, as further discussed in A1 and A2 below.

### A. What Are the Applicant’s and the Loan’s Eligibility Requirements?

The following restrictions apply to *SBAExpress* loans:

#### (1) Types of Loans and Loan Programs Not Allowable for *SBAExpress*

Lenders may use *SBAExpress* only for 7(a) loans and not for the microloan program, the development company program (504), or for LowDoc loans or any other SBA pilot program loans, unless specifically allowed by that pilot. In addition the following loans or loan programs are not allowed under *SBAExpress*:

- (a) Disabled Assistance Loan Program (DAL)
- (b) Energy Conservation
- (c) International Trade, except for Export Express loans described in further detail in section 11 below
- (d) Qualified Employee Trusts (ESOP)

- (e) Pollution Control Program
- (f) Defense Loan and Technical Assistance (DELTA)
- (g) CapLines Program (including Builders Loan Program)
- (h) Community Investment Adjustment Program (CAIP)

(2) Types of Businesses Not Allowable for SBAExpress

SBAExpress loans cannot be made to:

- (a) Agricultural and farm businesses
- (b) Fishing and shore operations (including commercial fishing activities and the construction of new fishing vessels)
- (c) Medical facilities involving any type of extended care/assisted living situation. (These could be eligible for standard 7(a) loan processing, but additional analysis would be required, which would preclude SBAExpress's expedited handling.) Routine medical laboratories/facilities, physician/dental offices, veterinarians, etc., are eligible for SBAExpress processing
- (d) Mines (including sand and gravel pits)
- (e) Applicants with operations, facilities, or offices located overseas (other than those strictly associated with the marketing and/or distribution of products exported from the U.S.)
- (f) Businesses engaged in teaching, instructing, counseling or indoctrinating religion or religious beliefs, whether in a religious or secular setting (Businesses engaged in moderate such activity could be eligible for standard 7(a) loan processing, but additional analysis would be required, which would preclude SBAExpress's expedited procedures.)
- (g) A business deriving directly or indirectly more than de minimis gross revenue through the sale of products or services, or the presentation of any depiction or displays, of a prurient sexual nature or that presents any live performances of a prurient nature.

SBAExpress loans also must meet regular SBA eligibility requirements as to type of business, which are stated in 13 CFR Part 120 and SOP 50-10(4), and which currently include such restrictions as non-profit businesses, businesses engaged in lending, passive holders of real estate/personal property, life insurance companies, pyramid businesses, businesses engaged in gambling, illegal businesses, businesses that restrict patronage, government-owned entities, cooperatives, businesses engaged in loan packaging, businesses engaged in political or lobbying activities, and speculative businesses.



### (3) Refinancing under SBAExpress

Under SBAExpress, a lender may refinance an existing non-SBA guaranteed loan or borrower debt if: (1) The existing loan no longer meets the needs of the applicant (for example if the current loan is a term loan and a revolver is needed); (2) The new loan meets the SBA's 20 percent increase in cashflow requirement, as applicable (see SOP 50 10(4)); and (3) If existing debt between the applicant and the requesting lender, it has been current (no payment beyond 29 days past due) for at least the last 36 months. Lenders must avoid any circumstances that could create a possible conflict of interest. Also, as discussed further below, in refinancing debt, particularly credit card debt, lenders must take reasonable steps to ensure applicants are aware and certify (SBA Form 1919, Borrower's Information Form, includes such a certification) that refinancing comprises only business related debt.

Existing SBA guaranteed loans may not be refinanced under SBAExpress. The only exception is if the transaction is the purchase of an existing business that has an existing SBA loan that is not with the requesting SBAExpress lender.

### (4) Use of Proceeds for Business Purposes

Due to the special nature of SBAExpress, particularly the level of authority and autonomy delegated to lenders under this program, SBA is particularly concerned that SBAExpress loan proceeds be used exclusively for business-related purposes. SBA therefore expects lenders to use reasonable methods to ensure that loan proceeds are used for business-related expenses, which means conformance with verification procedures at least as thorough as those used for their non-SBA guaranteed commercial loans. At a minimum, lenders must thoroughly communicate to borrowers that all SBA loan proceeds must be used only for business-related purposes, must **clearly set forth** that requirement on the loan authorization, and must secure a certification from the borrower that all loan proceeds will be so used. SBA Form 1919, which must be signed by the borrower(s) before closing/disbursement, has been recently modified and now includes such a certification.

### (5) Additional SBAExpress Restrictions

The following restrictions also apply to SBAExpress loans:

- (a) Existing SBA loan. Any existing SBA loan for the applicant business must be current for the lender to make an SBAExpress loan.
- (b) Piggy-back loan. A loan is not eligible for SBAExpress if the lender has or contemplates a piggy-back loan with the borrower. A piggy-back is a loan made by the lender at or about the same time for the same or similar purpose as the SBAExpress loan, with a lien position senior to the SBAExpress loan.
- (c) No more than 90% financing. An SBAExpress loan may not be used to finance more than 90 percent of the actual cost of any real estate being acquired or of the financing needs for a new business.

(d) SBA Form 1919. Generally, loans under *SBAExpress* may be made only if questions 1, 2, and 3 on SBA Form 1919 are all answered “No.” However, if one or more such questions is answered “Yes,” the lender may elect to process, submit, and disburse the loan under *SBAExpress*, when the subject’s affirmative activity meets the following situations (as further defined in SOP 50-10):

- A Single Minor Offense within the last 10 years; or
- Several Minor Offenses Remote in Time (occurred more than 10 years ago); or
- A Prior Offense that was cleared by the AA/FA or designee on a previous application where no other offenses have occurred since the previous application was cleared by the AA/FA or designee.

However, in using this authority, *SBAExpress* lenders must secure and submit a completed SBA Form 912 to SBA using the following steps:

- Applicant must complete and sign the Form 912, Statement of Personal History. Be particularly sure the applicant fully and properly completes the following items:
- Block 2: Ensure correct date of birth is noted, particularly the correct year;
- Block 3: Social Security number must be included;
- Block 7: Applicant must be very specific about each charge, the date, and the city and state where charged;
- Block 8: Applicant must be very specific on the disposition of each charge. For example, if probation was the disposition, specify for which charge(s) and for how long;
- Signature Block: Must be signed and dated with the date falling within 90 days of the submission to SBA;
- Lender must insert the SBA Servicing Office that will service the loan after it is processed by the Sacramento PLP Center;
- Include the address, telephone number, and contact person for the lender in block 9;
- Lender must check, sign, and date the “Fingerprints Waived” box in block 10 and the “Clear For Processing” box in block 11 of the 912;
- Lender must submit **two copies** of the 912 with affirmative answers to the Office of Inspector General, Office of Security Operations (OIG/OSO), Small Business Administration, 409 3<sup>rd</sup> Street, SW, Suite 5600, Washington, DC 20416; and
- Lender must retain the original copy of the Form 912 in the loan file.

For all Form 912s submitted, SBA’s OIG/OSO will request a “Name Check” (a/k/a background check) from the Federal Bureau of Investigation (FBI). However, OIG/OSO cannot process incomplete Form 912s, so lenders need to be especially diligent in ensuring that the applicant properly completes this form. OIG/OSO will return improperly completed Form 912s to the Office of Operations in OFA, which will follow up with the lender to obtain a corrected Form 912.

If the information from the FBI name check is consistent with the information provided in the SBA Form 912, OIG/OSO will notify the appropriate SBA Servicing Office. The SBA Servicing Office will document its file and will notify the lender that the applicant is eligible on a character basis for an SBA loan. The lender must document its loan file with SBA’s notification that the applicant is eligible.

If the information from the FBI name check contradicts the information provided in the SBA Form 912, OIG/OSO will notify the Office of Operations in OFA. The AA/FA or

designee will evaluate the discrepancy and determine if the discrepancy warrants a denial of the loan on a character basis. If the loan warrants a denial, the AA/FA or designee will notify the SBA Servicing Office. The SBA Servicing Office will notify the lender that the applicant is not eligible on a character basis and that SBA cannot guarantee the loan. If the loan has been disbursed, the Agency will cancel its guarantee.

If the *SBAExpress* lender does not exercise its authority to clear an affirmative Form 912, it may submit a standard 7(a) loan application to the local SBA field office to be processed under standard 7(a) loan procedures.

(e) Previous submission. A loan is not eligible for *SBAExpress* if the *SBAExpress* lender is aware that the application was previously submitted to SBA under any SBA program, including *SBAExpress*, *CommunityExpress*, PLP, CLP, LowDoc or regular 7(a).

(f) Ethical requirements. A loan is not eligible for *SBAExpress* if there is any question of possible violation of any of SBA's ethical requirements, as described in 13 CFR Part 120.140 and SOP 50-10(4).

(g) Contaminated collateral. A loan is not eligible for *SBAExpress* if it will have primary collateral that will not meet SBA's environmental requirements (as described in SOP 50-10(4)) or that will require use of a non-standard indemnification agreement, as also described in SOP 50-10(4).

(h) Previous loss to government. An *SBAExpress* loan is not to be made to:

(i) A business that previously defaulted on a Federal loan or Federally assisted financing that resulted in the Federal government or any of its departments or agencies sustaining a loss; or

(ii) A business owned or controlled by a principal or any Associates (see SOP 50-10(4)) which previously owned or operated a business which defaulted on a Federal loan (or guaranteed a loan which was defaulted) and caused the Federal Government or any of its agencies or departments to sustain a loss in any of its programs. This includes any compromise agreement with any such agency/department.

This restriction applies whether or not SBA was involved in the previous loss. Also, a loan is not eligible if a principal (as defined in SOP 50-10(4)) of the applicant was the recipient of a student loan that is in delinquent status.

(i) Conflict of interest. A loan is not eligible for *SBAExpress* if there are any real or apparent conflicts of interest involved. (SOP 50-10(4) further defines possible conflicts of interest.)

(j) Letter of credit. A loan is not eligible for *SBAExpress* if it guarantees or funds a letter of credit, unless the loan is an Export Express loan.

A loan is not ineligible for *SBAExpress* just because the borrower has been or is subject to a bankruptcy. That is a matter to be considered in the lender's credit decision. Some loans that are not eligible for *SBAExpress* may be eligible under other SBA loan programs, including PLP, LowDoc, or regular 7(a).

## B. What are the Terms and Conditions of *SBAExpress* Loans?

### (1) Maximum Loan Amount and SBA Guarantee Percentage

The total amount of any *SBAExpress* loan may not exceed \$250,000. The SBA guarantee on an *SBAExpress* loan may not exceed 50 percent. The aggregate balance of all *SBAExpress* and *FA\$TRAK* loans to a borrower and its affiliates may not exceed \$250,000. The aggregate balance of the SBA guaranteed portions of *SBAExpress* and all other outstanding SBA loans to a borrower and its affiliates may not exceed \$1 million.

EXAMPLE 1: A borrower has a *FA\$TRAK* loan of \$50,000, and an *SBAExpress* loan of \$25,000. The borrower may obtain another *SBAExpress* loan for \$175,000.

EXAMPLE 2: A borrower has a 7(a) loan with a balance of \$1,250,000 and a 75 percent SBA guarantee (for an SBA portion of \$937,500). The borrower may obtain an *SBAExpress* loan for \$125,000.

### (2) Multiple *SBAExpress* Loans

A lender may not approve more than one *SBAExpress* loan to the same borrower for the same project, unless there is a legitimate need to do so. A loan for a project may not be split into multiple smaller loans, in order to avoid SBA fees or requirements.

EXAMPLE 1: A borrower needs \$75,000 for working capital. A lender proposes to make three *SBAExpress* loans of \$25,000 each, so that none of the loans require collateral. (See Paragraph 5 B (6) of this Guide regarding collateral requirements.) The loans are not eligible for *SBAExpress*, because the reason for splitting the loans is to avoid an SBA requirement.

EXAMPLE 2: A borrower needs \$250,000 to start a business--\$200,000 to purchase equipment and a \$50,000 line of credit. The lender applies for two separate *SBAExpress* loans, because the maturity and repayment terms will be different for the equipment purchase and the line of credit. The loans are eligible for *SBAExpress*.

### (3) Revolving Line of Credit Loans

Revolving line of credit loans, including those accessed by credit cards, are extremely important to small businesses, particularly new and expanding small businesses. The lending community and the SBA are therefore continuing to develop and offer new and enhanced loan products which better address the demand for revolving line of credit loans.

*SBAExpress* revolving line of credit loans may be offered up to a maximum term of

seven years, and maturity extensions may be included at the outset of the loan provided the combined term does not exceed 7 years. In addition, an *SBAExpress* revolver may consist of revolving and maturity extensions of any length, as long as the combined term does not exceed 7 years.

In offering revolving lines of credit loans and their enhancements, the SBA must ensure that borrowers, particularly those accessing SBA guaranteed loans through credit cards, understand that these funds must only be used for business related purposes. As discussed under Section 5 A (5) above, lenders must apply verification procedures at least as thorough as those used for their non-SBA guaranteed commercial loans. At a minimum, lenders must thoroughly communicate to borrowers that all SBA loan proceeds must be used only for business-related purposes and also secure a certification from the borrower (now included on SBA Form 1919) that all loan proceeds will be so used.

**EXAMPLES:**

An *SBAExpress* lender may approve a loan with a 1 year revolver and a 1 year maturity extension.

An *SBAExpress* lender may approve a loan with a 2 year revolver and a 4 year maturity extension.

An *SBAExpress* lender may approve a loan with a 5 year revolver and a 2 year maturity extension.

An *SBAExpress* lender may not approve a loan with a 7 year revolver and a 1 year maturity extension.

**Loan Term Renewals:**

An *SBAExpress* revolving loan with a term of less than 7 years may be repeatedly renewed, but only up to a maximum of 7 years from the original date of the note. The renewal is done by providing notice to the SBA servicing office. (No new loan number will be generated.) However, if the initial loan was originally 12 months or less with a .25 percent guaranty fee, and the loan is being renewed to extend past 12 months, the lender must pay to SBA's Denver Finance Center (721 19<sup>th</sup> Street; Denver, CO 80202) the remainder of the SBA guaranty fee that would have been due if the loan had originally been for a term of more than 12 months.

**EXAMPLE:** A lender makes an \$80,000 revolving loan with a 12 month maturity and pays an SBA guarantee fee of 0.25 percent. At maturity, the lender renews the loan for another 12 months. At that time the lender must pay SBA an additional guaranty fee of 1.50 percent (2 percent minus 0.25 percent originally paid and the .25 that the lender is eligible to retain for loans under \$150,000.).

**Workouts:**

*SBAExpress* revolving loans may be extended past the initial 7 years only as a result of a

workout situation. For purposes of this guide, a workout is an action taken in response to an adverse condition of a borrower, with that action intended to keep the borrower's debt current and/or preclude default or liquidation. The maximum term for any workout is the minimum period that would normally be required to pay back the loan from the cash flow of the business, not to exceed 3 years. Loans with initial terms of 12 months or less that are extended beyond 12 months as part of a workout arrangement do not require an additional guaranty fee above the original .25 percent.

Increases:

*SBAExpress* revolving line of credit loans may be increased based on the needs of the small business and its credit situation, but the increase must not make the loan exceed the *SBAExpress* limit of \$250,000. While the amount of the increase is left to the discretion of the lender, it is expected that increases above 33 percent of the original loan amount will include an analysis of appropriate credit and risk factors consistent with the procedures the lender uses for its non-SBA guaranteed commercial loans. Increases must be processed through the SBA Processing or Servicing Center to which the loan is assigned.

(4) *SBAExpress* Maximum Maturities

*SBAExpress* loans must have a stated maturity and maturities are the same as for any other 7(a) loan as set forth in SOP 50-10(4), except that revolving *SBAExpress* loans are limited to a maximum maturity of seven years. Demand notes are not allowed under *SBAExpress*, although *SBAExpress* revolvers may be established as renewable each year. The term of an *SBAExpress* loan may not exceed the period of the SBA guarantee commitment

(5) Interest Rates

For *SBAExpress* loans, a lender may charge up to 4.5 percent over the prime rate for loans over \$50,000 up to \$250,000 and up to 6.5 percent over the prime rate for loans of \$50,000 or less, regardless of the maturity of the loan. For variable rate loans, an *SBAExpress* lender is not required to use the base rate identified in the Federal Register. It may use the same base rate of interest it uses on its similar non-SBA loans as well as its established change intervals, payment accruals, etc. However, the interest rate throughout the term of the loan may not exceed the maximum allowable *SBAExpress* interest rate and the loan may be sold on the secondary market only if the base rate is the prime rate as published each business day in a national financial newspaper or is SBA's Optional Peg Rate. Further, the amount of interest SBA will pay to a lender following default of an *SBAExpress* loan is capped at the maximum interest rates for the standard 7(a) loan program.

(6) Collateral

Under *SBAExpress*, to encourage smaller loans and to facilitate access to smaller lines of credit, lenders are not required to take collateral for loans of \$25,000 or less. For *SBAExpress* loans greater than \$25,000 but not greater than \$150,000, the lender must follow the collateral policies and procedures that it has established and implemented for

its non-SBA guaranteed commercial loans. SBA nevertheless expects the lenders' collateral policies will be commercially reasonable and prudent practices for lenders generally. For *SBAExpress* loans greater than \$150,000, the lender must obtain a lien on sufficient business collateral to, in the lender's judgement, adequately secure the loan. For loans greater than \$150,000, the lender may also want to obtain a perfected security interest on additional collateral. With respect to collateral taken, *SBAExpress* lenders must use commercially reasonable and prudent practices to identify collateral items, which would include conformance with procedures at least as thorough as those used for their non-SBA commercial loans.

(7) Fees

The SBA guaranty and servicing fees are the same for *SBAExpress* as for regular 7(a) loans. The lender may charge the same other fees for *SBAExpress* loans as it charges for its non-SBA guaranteed commercial loans. However, if the loan is purchased by SBA, the Agency will not purchase any portion of the loan balance that consists of these other fees charged to the borrower.

(8) Access to *SBAExpress* Funds

*SBAExpress* loan funds may be accessed through a variety of methods consistent with the way the lender normally conducts business for its non-SBA guaranteed commercial loans. Access through a credit card, including for revolving lines of credit, is acceptable under the *SBAExpress* program. However, SBA will have the right to deny a repurchase request of an *SBAExpress* loan guaranty for the misuse of credit cards involving fraud or misrepresentation or if the debtor exceeds his/her credit card limit for purchases on credit. In providing access through credit cards, lenders must ensure that these loans are documented by legally enforceable and assignable promissory notes and/or other equivalent debt instruments.

(9) Secondary Market Sales

*SBAExpress* loans may be sold on the secondary market. However, for variable rate loans, the base rate must be the low prime rate as published each business day in a national financial newspaper or SBA's Optional Peg Rate.

C. What is the Lender's Responsibility for Reviewing an Applicant's Eligibility for an *SBAExpress* Loan?

*SBAExpress* is a streamlined program, so complex or ambiguous eligibility issues should generally be processed using standard 7(a) procedures rather than through *SBAExpress*. Also, *SBAExpress* transfers additional authority and responsibility to its participants, so *SBAExpress* lenders are expected to assume greater responsibility for screening applicants and loans for SBA eligibility. *SBAExpress* lenders are thus expected to be fully familiar with SBA's eligibility requirements as set forth in the Agency's statutes, regulations, SOPs, and *SBAExpress* Program Guide and to generally screen all *SBAExpress* applicants and loans to ensure they meet those requirements.

In screening *SBAExpress* loans for SBA eligibility, lenders may in many instances rely on

certifications provided by the applicant, several of which are included in the *SBAExpress* application documents. For example, character, citizenship, and other eligibility factors are included on the SBA Form 1919. In the case of size, the lender may rely on information provided by the applicant at the date of application, unless the lender has credible evidence to the contrary.

However, other eligibility issues will require closer lender attention. If, for example, a franchise is involved, the *SBAExpress* lender must review the current list of SBA acceptable franchise agreements to ensure the agreement continues to meet SBA's requirement that the franchisee's opportunity for profit and risk of loss commensurate with ownership is acceptable. If the franchisor's agreement does not appear on the registry, the lender must review the agreement to ensure it meets SBA's requirements as set forth in SOP 50-10(4). (Note that the franchise registry addresses only the franchise agreement.) In any event, lenders must maintain appropriate loan file documentation supporting their eligibility screening.

While the SBA expects all *SBAExpress* lenders to carefully screen their applications for SBA eligibility, the Agency may authorize qualified lenders to analyze and fully determine an applicant's eligibility for an *SBAExpress* loan without prior review and approval by the Agency. Participants in *SBAExpress* will thus include lenders that have been delegated full authority to make SBA eligibility determinations ("Delegated Eligibility Lenders") and lenders that have not been delegated full eligibility authority ("Non-Delegated Eligibility Lenders.")

#### (1) Lenders Delegated Eligibility Authority

To be delegated the authority to make eligibility determinations, and to have that authority renewed, lenders must have: (1) Processed at least 25 SBA loans in SBA's most recent fiscal year; (2) Received a positive recommendation for eligibility authority from their Lead SBA Office; (3) Received a lender review by or on behalf of SBA in the last 2 years; and (4) Received an acceptable rating as a result of that review.

Lenders delegated eligibility authority must use that authority to process all their *SBAExpress* loans. While these lenders are expected to be proficient in and make *SBAExpress* eligibility determinations themselves, if they have questions on a particular *SBAExpress* loan, they may consult with SBA regarding that loan's eligibility prior to submitting the request for an SBA loan number. However, as noted above, complex eligibility issues generally should not be processed through *SBAExpress*. The consultation request may be e-mailed to the Sacramento Loan Processing Center at [SBAExpress\\_Eligibility\\_Questions@sba.gov](mailto:SBAExpress_Eligibility_Questions@sba.gov).

Delegated Eligibility Lenders will be required to certify in their request for an SBA loan number that the applicant and the loan meet the Agency's eligibility requirements. In making that certification, the lender will acknowledge complete liability for the loan if it later comes to the attention of SBA or the lender that the applicant was ineligible.

Delegated Eligibility Lenders have the option to use or not use SBA's eligibility checklist, which would be maintained in the lender's loan file but not sent to SBA. However, the lender must maintain appropriate loan file documentation supporting its



eligibility determination. It must also ensure all required forms/information are obtained, are complete, and are properly executed.

A lender wishing to apply for delegated eligibility authority may send a request in writing to the Director, Sacramento Loan Processing Center with an information copy to its Lead SBA Office. The Center will contact the lender's Lead SBA Field Office, SBA's Loan Servicing Centers, and the field office(s) covering the territory where the lender generates significant numbers of SBA loans for information on the lender's proficiency in making eligibility determinations. The Center gathers the information, analyzes it, and sends it with a recommendation to the AA/FA. The AA/FA or designee reviews the application, makes a final decision, and forwards that decision to the Center, which notifies the lender.

The lender's initial authorization to make eligibility determinations will extend until its next *SBAExpress* renewal date and will coincide with that date thereafter. Delegated eligibility authority will generally be conferred for the term of participation in the *SBAExpress* program, although the AA/FA or designee may confer that authority for a shorter period if circumstances regarding the lender's performance or its eligibility determinations warrant.

Renewal of delegated eligibility authority will be based on the lender's: (1) Proficiency in making SBA eligibility determinations; (2) Receiving a positive recommendation for eligibility authority from their Lead SBA Office; (3) Receiving an SBA administered lender review in the last 2 years; and (4) Receiving an acceptable rating, as determined by the AA/FA or designee, as a result of that review.

The Center will automatically start the renewal process a few months prior to the expiration of a lender's delegated eligibility authority. The Center gathers the information relevant to a lender's eligibility authority renewal, analyzes it, and sends it with a recommendation to the AA/FA. The AA/FA or designee reviews the renewal, makes a final decision, and forwards that decision to the Center.

#### (2) Lenders not Delegated Eligibility Authority

Lenders that are not delegated eligibility authority must nevertheless carefully review and screen *SBAExpress* applicants and loans to ensure they meet SBA's eligibility requirements before transmitting the application materials to the Center. These materials will include the SBA request for a loan number, the eligibility checklist, and the supplemental information sheet.

Non-delegated lenders must ensure all required forms/information are obtained, are complete, and are properly executed. Appropriate loan file documentation must be maintained, including adequate information to support the eligibility of the applicant and the loan.

#### D. What Credit Analysis Must the Lender Do?

The *SBAExpress* credit analysis and credit decision processes are delegated to the lender. However, the lender is required to use appropriate and generally accepted credit analysis processes and procedures, and these procedures must be consistent with those used for its

non-SBA guaranteed commercial loans. Acceptable analytical processes include “credit scoring,” if the lender uses credit scoring for non-SBA guaranteed commercial loans. The credit analysis technique must be documented, must be kept in the loan file, and is subject to SBA review.

The credit decision, including how much to factor in a past bankruptcy or whether to require an equity injection, is left to the business judgment of the lender. Also, if the lender requires an equity injection and, as part of its standard processes for non-SBA guaranteed loans verifies the equity injection, it must do so for *SBAExpress* loans. Otherwise, verification of an equity injection is not required.

## 6. WHAT IS THE *SBAExpress* APPLICATION PROCEDURE?

### A. What Forms are Required?

*SBAExpress* loan application packages must include the forms and information the lender requires to make an informed eligibility and credit decision. The lender's application must be certified by the applicant as true and complete.

Except as set forth in paragraphs 1, 2, and 3 below, the only documentation required by SBA from the applicant under *SBAExpress* is the SBA Form 1919, “*SBAExpress* Borrower Information Form,” which must be signed and dated by the applicant. The Form 1919 has been modified and consolidated to generally include the certifications and requirements previously set forth in SBA Forms 159, 601, 912, and 1624.

Lenders should note that SBA is evaluating various options for processing loans and transmitting financial information electronically to the Agency. As part of that process, the Agency may in the future require participating lenders to provide SBA with additional information to what is currently required under the *SBAExpress* program, including FICO scores.

(1) Form 159: If no packager has been used by the applicant to complete the *SBAExpress* loan application, the applicant will so indicate on the Form 1919, and no Form 159 is required. If a packager has been used, the Form 159 must be fully completed and kept in the loan file, and the lender does not send it to SBA.

(2) Form 601: If no construction above \$10,000 is involved, the applicant will so indicate on the Form 1919, and no Form 601 is required. If construction above \$10,000 is involved, the applicant and the contractor must complete the Form 601. The lender must keep the signed Form 601 in its loan file, and the lender does not send it to SBA.

(3) Form 912: If question 1, 2, and 3 of Form 1919 are answered negatively, no Form 912 is required. If question 1, 2, or 3 is answered affirmatively, the lender may process the loan, but it must have the applicant complete Form 912 and follow the steps as outlined in section 5A6d above.

(4) Form 1624: If the applicant has never been debarred, suspended, or otherwise excluded, the applicant must so indicate on Form 1919, but no Form 1624 is required. If the applicant answers affirmatively, the loan cannot be processed through *SBAExpress*.

For an *SBAExpress* loan, an SBA Form 1919 must be signed by each of the following:

- (a) for a sole proprietorship, the sole proprietor
- (b) for a partnership, all general partners and all limited partners owning 20 percent or more of the equity of the firm
- (c) for a corporation, each officer, director, and 20% or more owner
- (d) any other person, including a hired manager, who has authority to speak for and commit the borrower in the management of the business
- (e) any person guaranteeing the loan, if that guaranty normally would have been required by SBA, as set forth in SOP 50-10(4).

The SBA does not require the *SBAExpress* lender to secure the signed SBA Form 1919 and/or other required documents before requesting a loan number from the Center. However, the lender must continue to ensure that required SBA documents are properly executed by all required parties at some point prior to closing or disbursing the loan. Lenders also need to keep a copy of these signed documents in the loan file.

This procedure will allow lenders, for example, to complete an initial screening of prospective applicants by mailing (or e-mailing) a promotional piece that includes a preliminary application that requests some basic customer interest and SBA eligibility information. This information could then be enhanced telephonically, by mail, or electronically (e-mail) before submitting final documents to the Center. (However, lenders will probably still want to ensure that during their initial screening process the applicant certifies that he/she meets some of SBA's most basic eligibility requirements, particularly those regarding size, character, and citizenship status.) Then, at some point just prior to (or coincident with) the loan closing, the lender must ensure that the loan applicant(s) properly completes, signs, and dates all required SBA documents.

The *SBAExpress* lender is responsible for ensuring all required forms/information are obtained, are complete, and are properly executed, including electronically based forms/information that are the anticipated basis of the Agency's developing electronic lending process. In addition, after the loan is closed, the lender must continue to apprise SBA of certain critical performance data as well as changes in certain basic borrower information, such as trade name, address, etc.

#### B. How Does the *SBAExpress* Lender Request an SBA Loan Number?

The *SBAExpress* lender sends to the Center the "Request for Loan Number" and any forms or checklists required by the Center (to provide evidence of eligibility and required data inputs to generate the loan number).

The lender may send the request for loan number by mail, facsimile transmission or electronic transmission, with the specific option worked out with the Center. As SBA technology and resources permit, SBA may require all *SBAExpress* loan number requests be transmitted to the Agency electronically.

For loans with a maturity of twelve months or less, the lender must, within 10 days of when the loan number is assigned, send the guaranty fee to the Denver Finance Center, P.O. Box 748, Denver, Colorado 80259. The lender must do this before it signs the SBA Authorization for SBA. If Denver does not get the check within 10 business days after issuing the loan number, SBA cancels the guarantee.

### C. What Does the Center Review?

The Center reviews the request for loan number to check that the lender provided the required information and to see if there are any eligibility issues (or for Delegated Eligibility Lenders, to see if the lender certified that the loan is eligible). This is a quick review of documentation. However, if the SBA later learns that the loan is ineligible, SBA has the authority to deny liability on its guarantee.

Note: Congress determines SBA's budget on an annual basis. SBA does not have authority to guarantee loans if it has run out of budgetary authority. While we delegate loan approval authority to the *SBAExpress* lender, the loan does not have an SBA guarantee until the Center issues a loan number. The Center cannot issue a loan number if funds are not available.

### D. How Do We Notify the Lender after We Review a Request?

If a loan appears eligible and funds are available, the Center will to the best of its ability give the lender a loan number by fax or by electronic transmission within one day after the request for loan number is received. If the Center identifies an eligibility problem, the Center reviewer advises the lender of the problem. If the lender wants, the Center will deny the loan within the one-day turnaround period and explain the eligibility problem in writing to the lender and the SBA field office. Or if the lender prefers, the Center will keep the application until the problem is researched and resolved. However, as noted above, complex eligibility issues should generally be handled through standard 7(a) loan processes.

### E. How Does a Lender not Delegated Eligibility Authority Request Reconsideration of a Denial?

If the Center finds a proposed loan ineligible for a lender not delegated eligibility authority and the lender disagrees, the lender may request a reconsideration, which must be in writing. An oral discussion can occur as to the facts, but any discussion must be followed up in writing/electronically and must contain the information needed to make an eligibility decision. The lender must send the reconsideration request to the Center within 30 days after receiving the Center's initial decision of ineligibility. The Center will notify the lender of the reconsideration decision.

If the reconsideration is denied, the lender must submit a written or electronic request for further reconsideration. The request for further reconsideration must be sent to the Center within 30 days after the last eligibility decision. It must specifically request a reconsideration at the next higher level and state the reasons as to why SBA should reverse the eligibility decision. The Center sends the request to the AA/FA or designee for review and a final eligibility decision. The Center informs the lender of the final decision.

Loans ineligible for *SBAExpress* may, under some circumstances, be eligible for submission under some other SBA loan program [such as PLP, CLP or regular 7(a)]. If the Center denies an *SBAExpress* loan number and the lender resubmits the loan to SBA under another loan program, the lender must notify the office to which it submits the loan that the loan was denied an *SBAExpress* number. The lender must provide that office a copy of the Center's denial letter.

7. WHAT MUST A LENDER DO FOR CLOSING, SERVICING AND LIQUIDATION OF *SBAExpress* LOANS?

The *SBAExpress* lender must close, service, and liquidate its *SBAExpress* loans using those practices and procedures that the lender uses for its non-SBA guaranteed commercial loans, but under all circumstances, the practices used for *SBAExpress* loans must be reasonable and prudent commercial lending practices.

A. Who Drafts and Signs the SBA Authorization?

The lender completes the *SBAExpress* Loan Authorization without SBA review and signs it on behalf of SBA. (The latest version of the *SBAExpress* Loan Authorization may be accessed from SBA's banking page at <http://www.sba.gov/banking/>.)

B. What are the Closing Requirements?

An *SBAExpress* lender must use the same closing and disbursement procedures and documentation for its *SBAExpress* loans as it uses for its non-SBA guaranteed commercial loans. However, there must be a promissory note that is legally enforceable and assignable, in the event that it would ever have to be assigned to SBA. While demand notes and "demand" payment schedules are allowable if they are used by the lender for non-SBA guaranteed commercial loans, the note must still have a stated maturity date.

The lender must obtain all required collateral and must meet all other required conditions before loan disbursement. These conditions include requirements identified in the loan write-up, like standby agreements, appraisals, business licenses, or cash/equity injections.

The lender must do the following before disbursing an *SBAExpress* loan:

- (1) The lender must use IRS tax transcripts to verify financial information used to support the loan credit analysis for all *SBAExpress* loan applications. (However, as set forth in SBA Notice 5000-753, *SBAExpress* lenders are authorized to close and disburse *SBAExpress* loans without waiting for the IRS transcript, although they must follow-up and verify the IRS data when received. Also, if credit scoring is used and does not include business revenues or profits, IRS tax verification is not required.) If the lender discovers any discrepancy that is significant enough to indicate possible fraud on the part of the small business, the lender must:

-- Instruct the Center in writing to cancel the loan; and

-- Call the OIG FRAUD LINE at 1(800)767-0385 (Toll Free) or mail to:

Small Business Administration  
Office of Inspector General  
Investigations Division  
Mail Code: 4113  
409 3<sup>rd</sup> Street, SW  
Washington, DC 20416

Include a cover letter explaining the discrepancy. Include the names, addresses and telephone numbers of the applicant, business, lender, packager, and tax return preparer.

- (2) Get satisfactory evidence that there has been no unremedied adverse change (as set forth in SOP 50-10(4)) since the date of the application, or since any of the preceding disbursements, in the financial or any other condition of the borrower that would warrant withholding or not making any disbursement. For revolving line of credit disbursements, lenders should essentially follow the same practices as they do for their non-SBA guaranteed commercial revolving lines of credit loans.
- (3) Get required hazard insurance on all assets taken as collateral, as set forth in SOP 50-10(4). If the lender does not require hazard insurance (for example, if it would impose an undue burden on a borrower given the small size of a loan), the lender must document the reason in its loan file. If collateral is not taken, hazard insurance is not required.
- (4) Make the required flood hazard determination and require flood insurance (when collateral is taken) pursuant to the flood insurance requirements in SOP 50-10(4). (Generally, those requirements state that flood insurance is required on real estate collateral in a flood zone, but it is within the lender's discretion to determine whether flood insurance is necessary on contents when the building is not taken as collateral.)
- (5) In the construction of a new building or an addition to a building, get the borrower's agreement that the construction will conform with the "National Earthquake Hazards Reduction Program Recommended Provisions for the Development of Seismic Regulations for New Buildings." Compliance with these requirements must be evidenced by a certificate issued by a licensed building architect, construction engineer or similar professional, or a letter from a state or local government agency stating that the issuance of an occupancy permit is required and is subject to conformance with building codes and that the local building codes include the Seismic standards.

The following codes have been identified as being substantially equivalent to the National Earthquake Hazards Reduction Program Recommended Provisions: 1991 Uniform Building Code of the International Congress of Building Officials (ICBO); 1992 Supplement to the Building Officials and Code Administrators (BOCA) National Building Code; 1992 Amendments to the Southern Building Code Congress (SBCC) Standard Building Code.

- (6) Get borrower's agreement that it will, to the extent feasible, purchase only American-made equipment and products with the proceeds of the *SBAExpress* loan. This certification is included on the SBA Form 1919.
- (7) For any loan involving construction of more than \$10,000, as indicated on SBA Form 1919, require borrower and contractor to execute SBA Form 601, Applicant's Agreement of Compliance. The lender must keep this form in the loan file and does not send it to SBA.
- (8) The Small Business Act requires that all borrowers supply information about payments to loan packagers, accountants, appraisers, lawyers, or any other individual or entity

that assisted the borrower in getting the loan. If the applicant responds negatively to this question on the Form 1919, Form 159 is not required. Otherwise, it must be completed, and the lender must keep the signed Form 159 in the loan file and does not send it to SBA

- (9) Get certification from any 50% or more owner of applicant business on SBA Form 1919 that he or she is not more than 60 days delinquent on any obligation to pay child support arising under:
- a) an administrative order;
  - b) a court order;
  - c) a repayment agreement between the holder and a custodial parent; or
  - d) a repayment agreement between the holder and a state agency providing child support enforcement services.

- (10) Require appropriate environmental reviews and compliance. An *SBAExpress* lender must follow the environmental requirements of SOP 50-10(4) and is delegated the authority to make prudent decisions regarding environmental risk that are stated there as reserved for the processing SBA office. An *SBAExpress* lender may not request an *SBAExpress* loan number for a loan that will have primary collateral that will not meet SBA's environmental requirements or that will require use of a non-standard indemnification agreement.

The lender does not have to secure real estate appraisals for *SBAExpress* loans, because they are limited to \$250,000 or less. Also, SBA Form 1050, Settlement Sheet, is not required to document disbursements. The lender must send only a copy of the executed Authorization to the SBA office servicing the loan. The lender should not send any other closing documentation to SBA after closing an *SBAExpress* loan.

### C. What Are the Servicing and Liquidation Requirements?

Routine *SBAExpress* loan servicing and liquidation issues as well as purchase requests are currently being handled centrally by either SBA's Loan Servicing Center in Little Rock at 2120 Riverfront Drive, Little Rock, AR 72202 (501-324-5871) or in Fresno at 2719 North Air Fresno Drive, Fresno, CA 93727-1547 (209-487-5650).

The *SBAExpress* lender must service and liquidate its *SBAExpress* loans using those practices and procedures that the lender uses for its non-SBA guaranteed commercial loans but, under all circumstances, such standards must be reasonable and prudent commercial lending practices.

Lenders must use the 1502 reporting format to timely and accurately report the status and outstanding balance of all of their SBA loans, including *SBAExpress* loans, to Colson Services` Corporation by the third day of each month, or the next business day after the third if the third of the month is not a business day.

All *SBAExpress* lenders must remain current in filing the required monthly reports in the form required by SBA and in remitting required SBA servicing fees.

(1) When is SBA Consent for an Action Required?

The *SBAExpress* lender may take any necessary servicing or liquidation action for any *SBAExpress* loan in its portfolio, with the following exceptions:

The lender must get the prior written consent of SBA before taking any of the following actions. It must also document the action and SBA's consent in its loan file. The lender must secure SBA consent to:

- (a) Increase the principal amount of the loan
- (b) Change the SBA guaranteed percentage of the loan
- (c) Transfer the loan to another lender
- (d) Compromise with any obligor for less than the full amount due of the principal loan balance outstanding. (Accrued interest may be adjusted, if justified, without SBA approval.)
- (e) Release a guarantor for less than the principal balance owed even if actual demand has not yet been made on the guarantor.
- (f) Sell or pledge more than 90 percent of the loan
- (g) Disburse a loan with primary collateral having significant potential environmental risks that are proposed to be minimized by a non-standard indemnification agreement
- (h) Acquire environmentally impaired property
- (i) Take any action that would create a conflict of interest or confer any preference on the lender in collection or lien position with respect to SBA's position or the shared SBA/lender position on the loan.
- (j) Title property in the name of the Agency
- (k) Handle any non-routine litigation (including all contested litigation) or any routine litigation involving estimated legal costs exceeding \$5000. (A Litigation Plan must be submitted in accordance with SOP 70-50.)
- (l) Repurchase the loan from the secondary market.
- (m) Select firms owned by officers, directors, employees or stockholders (10% or greater) of the lender to provide care and preservation services, legal assistance, or other liquidation services.
- (n) Release collateral for an SBA guaranteed loan that will subsequently be pledged for a conventional loan from the lender or any entity owned in whole or in part by the lender's officers, directors, employees, or shareholders of 10 percent or more.

(2) When Must Lender Notify SBA of Action Taken?



The lender must document its loan file and notify the SBA Servicing Center electronically or in writing as soon as possible, but no longer than 10 days after, any of the following actions. SBA will acknowledge receipt of such notification. The lender must notify SBA if it:

- (a) Decreases the principal amount of the loan
- (b) Cancels the loan
- (c) Becomes aware of a change in the trade name of the business (or, if it has no trade name, the name of the business entity)
- (d) Becomes aware of a change to the borrower's address
- (e) Changes the interest rate on a fixed rate loan or the interest rate spread on a variable rate loan
- (f) Changes a loan's maturity
- (g) Becomes aware of circumstances that would cause SBA to re-classify the loan into "liquidation status."

(3) How Does the Lender Document Liquidation of a SBAExpress Loan?

The lender does not have to provide a liquidation plan to SBA. However, as set forth in section 8 B below, it must document any action taken during the liquidation of a loan. SBA will review liquidation actions as part of its review of a lender's processing, making, servicing, and liquidation of loans under the SBAExpress program.

(4) How Does the Lender Apply Proceeds of Collateral?

Apply proceeds from the sale of collateral in the following order:

- (a) liquidation expenses
- (b) the 120 days of interest permitted on the balance as of the earliest uncured default
- (c) principal balance of the loan.

(5) May the Lender Take Back a Note Receivable?

A lender may take back a Note Receivable on the sale of collateral on any reasonable terms negotiated between the lender and the buyer. However, the Note Receivable must be legally enforceable and assignable and must be properly signed by the borrower/guarantor acknowledging the debt. The Note Receivable will not have an SBA guarantee.

## 8. HOW DOES SBA PURCHASE ITS GUARANTEE?

### A. When Will SBA Purchase SBAExpress Loans?

Normally, SBA purchases its guaranteed interest after the lender has fully liquidated all collateral and the lender has pursued all avenues of collection. However, upon request of a lender, SBA will in general immediately process the purchase of all Export Express loans. In addition, SBA will immediately process the purchase of any SBAExpress loan that:

- (a) has a principal balance of \$50,000 or less at the time of the purchase request or
- (b) involves, regardless of the loan balance, bankruptcy, judicial foreclosure, litigation, or other unusual liquidation circumstances likely to extend the liquidation process more than 90 days past the earliest date that the lender could request purchase. (Generally, the earliest date a lender could request SBA to purchase is when there has been an uncured default exceeding 60 days.)

When requesting the purchase of an SBAExpress loan with a balance of \$50,000 or less, the lender generally will not be required at that point to substantiate the liquidation of business assets, although the lender must document the liquidation of all business assets in its wrap-up report for the loan.

### B. Must SBAExpress Lenders Liquidate all SBAExpress Loans?

SBAExpress lenders must complete the liquidation of all SBAExpress loans with a remaining collateral value in excess of \$1,000, including those immediately purchased by SBA. In pursuing liquidation after SBA's purchase, SBAExpress lenders must provide SBA with a liquidation status report every 180 days until all recovery is completed. Within 60 days of when the liquidation is finished, the lender must provide the Agency with a liquidation wrap-up report summarizing all recovery activity, collections, and expenses and must forward to SBA its proportionate share of any recovery proceeds not already remitted to the Agency.

For loans with an estimated remaining collateral value of \$1,000 or less, the lender may request that SBA accept the transfer of the loan in order to complete liquidation.. If the lender requests SBA to complete liquidation, SBA will review the request using normal review criteria and determine if referral to Treasury for liquidation is appropriate. Bankruptcy, foreclosure, litigation, cross-collateralization with another SBA guaranteed loan, possible grounds for an SBA purchase adjustment ("repair") or denial of liability, or other factors could preclude SBA's transfer to Treasury. In requesting that SBA liquidate, the lender must identify all guarantors obligated on the debt that have not been discharged in bankruptcy so SBA can include their names in the Treasury offset system. Any recoveries obtained by SBA or Treasury will be remitted to SBA, and the lender and SBA will share in the proceeds reduced by Treasury's costs of collection.

In carrying out their liquidation responsibilities, lenders should recognize that, as part of its lender monitoring and review responsibilities, the Agency will explicitly evaluate the timeliness and reasonableness of SBAExpress lenders' liquidation activities. Further, even with expedited purchases, SBA will conduct complete purchase reviews as provided under SOPs 50-50 and 50-51.

### C. What Procedures and Documentation Does SBA Require to Complete the Liquidation?

On expedited and non-expedited purchases, SBA reviews all loan documentation that is relevant to the purchase being processed prior to payment of its guaranteed portion using standard guaranty purchase review procedures. If the documentation submitted by the lender indicates that the lender has complied with the Supplemental Guarantee Agreement, this Program Guide, and SBA's rules and regulations, and there is no indication of fraud, negligence, misrepresentation or other lender misconduct, SBA will pay 50 percent of the total of the principal balance outstanding after liquidation including up to 120 days interest at the rate in effect at the time of the earliest uncured default (if liquidation proceeds collected by the lender were insufficient for the lender to recover a full 120 days of interest). (However, SBA will have the right to deny a repurchase request of an *SBAExpress* loan guaranty for the misuse of credit cards involving fraud or misrepresentation or if the debtor exceeds his/her credit card limit for purchases on credit.) The maximum SBA will pay the lender is 50 percent of the loan balance at the time of default plus 50 percent of up to 120 days interest at the rate in effect on the date of default. The lender must absorb any expenses that exceed this amount.

SBA will not purchase any portion of the loan balance that consists of lender fees (such as late fees) or other amounts charged to the borrower (other than reasonable and necessary lender disbursements incurred in recovery actions). If lender fees or other amounts charged by the lender are not paid by the borrower prior to the purchase request, the lender must deduct these amounts, and any interest charged on such amounts, from the balance shown on the transcript of account submitted to SBA. Reasonable and necessary disbursements incurred in lender recovery actions may be added to the transcript if the lender has not been reimbursed for these disbursements by the borrower or through collection actions.

For SBA to process the guaranty purchase, the lender must submit to SBA a liquidation wrap-up report with all the information required by SBA SOPs along with copies of required loan documentation to the appropriate SBA Loan Servicing Center in Little Rock or Fresno. When the principal loan balance at the time of the purchase request does not exceed \$25,000, the servicing center will accept, in lieu of documentation to evidence that liquidation has been completed, the lender's certification that "liquidation is complete."

For expedited purchases, SBA will follow the above procedures, except that SBA will immediately purchase the loan as provided in sections A and B. Other than as noted in these sections for loans involving collateral values of \$1,000 or less, the lender must complete the liquidation.

SBA reserves the right to purchase its guaranty prior to liquidation and to liquidate the loan using SBA personnel. SBA expects this to be a rare occurrence.

## 9. HOW DOES SBA ASSESS THE *SBAExpress* LENDER'S PERFORMANCE?

SBA will assess an *SBAExpress* lender's performance through lender reviews, analysis of lender performance data including currency rate, loss rate, etc., and other management oversight and control activities. These activities are designed to evaluate how well the lender has:

- (1) Complied with applicable SBA statutes, regulations, policies, and procedures, including those relating to *SBAExpress*;
- (2) Duplicated, for *SBAExpress* loans, those established practices, procedures, and analyses

- that it uses for other non-SBA guaranteed commercial loans;
- (3) Processed, made, closed, serviced, and liquidated SBA loans;
- (4) Maintained a satisfactory performance history with SBA, including acceptable currency and default rates;
- (5) Complied in filing SBA required performance data (currently provided via the SBA's 1502 reporting system) and remitted required guarantee and servicing fees;
- (6) Remained in good standing with its primary regulator, with no enforcement actions or agreements in place that are unacceptable to SBA;
- (7) Achieved an acceptable performance rating, as determined by the AA/FA, as the result of any SBA administered lender reviews, and
- (8) Responded to previous findings and recommendations as a result of SBA administered lender reviews.

10. WHAT IS THE PROCEDURE FOR SUSPENSION OR REVOCATION OF ELIGIBILITY TO PARTICIPATE IN THE SBA*Express* PROGRAM?

- (a) The AA/FA may suspend or revoke a participant lender's eligibility to participate in the SBA*Express* Program. Reasons for suspension or revocation include those factors/requirements set forth in Section 4 above.
- (b) SBA will commence suspension or revocation proceedings by written notice to a participant lender. Such notice will set forth the reasons for the proposed Agency action, and advise that the proposed suspension or revocation will automatically become final 15 business days after the date of the notice unless the participant lender submits to SBA, prior to the expiration of that time period, written opposition to the proposed Agency action. Such written opposition may include argument, as well as documentary evidence, deemed relevant by the participant lender. Written opposition by a participant lender must be delivered or mailed to: Director, Sacramento PLP Center.
- (c) If the participant lender timely submits written opposition to the suspension or revocation proposed by SBA, the AA/FA or designee will review that submission, together with relevant Agency records, prior to the issuance of a final Agency decision regarding suspension or revocation. Following such review, the Agency's final decision as to the suspension or revocation of the participant lender's eligibility to participate in the SBA*Express* Program will be issued by the AA/FA. The Agency will issue a final Agency decision, insofar as practicable, within 15 business days following the Agency's receipt of the participant lender's written opposition.
- (d) A written notice of proposed suspension will constitute an initial Agency decision, and the suspension will be effective as of the date of issuance of the notice. The suspension will automatically become final 15 business days following the date of the notice if the participant lender does not submit written opposition during those 15 business days. If the participant lender does timely submit written opposition, the suspension will either be vacated or made final following the Agency's review of such written opposition and relevant Agency records.

11. WHAT IS SBA EXPORT *EXPRESS*?

The Export *Express* program is designed to help SBA meet the export financing needs of small

businesses too small to be effectively met by existing SBA export loan guaranty programs. It is a subprogram of *SBAExpress* and is therefore subject to the same loan processing, making, closing, servicing, and liquidation requirements as well as the same maturity terms, interest rates, and applicable fees as for other *SBAExpress* loans, except as noted below.

A. What are the Lender Eligibility Requirements for Participation in Export Express?

Lenders provided *SBAExpress* authority may also make SBA Export *Express* loans. However, to retain or renew their Export *Express* authority, *SBAExpress* lenders must:

- (1) Effectively process, make, close, service, and liquidate Export *Express* loans;
- (2) Maintain satisfactory performance history with respect to Export *Express* loans, including acceptable default and currency rates;
- (3) Remain in compliance with applicable SBA statutes, regulations, and policies;
- (4) Have received no major substantive objections regarding renewal from the field office(s) covering the territory where the lender generates significant numbers of Export *Express* loans; and
- (5) Received acceptable review results on the Export *Express* portion of any SBA administered lender reviews.

SBA will generally grant lenders Export *Express* loan authority for a term that coincides with the lender's *SBAExpress* term, unless the AA/FA or designee determines a shorter term is appropriate.

B. What are the Eligibility Requirements for SBA Export Express Borrowers?

The small business eligibility requirements for Export *Express* are the same as those for *SBAExpress*, except the applicant business must have been in operation, although not necessarily in exporting, for at least 12 full months. However, as discussed further in section C below, the applicant must demonstrate that loan proceeds will enable it to enter a new export market or expand an existing export market. To demonstrate the loan will be used for export purposes, the applicant must submit to the lender a plan, which may be one or two pages, explaining how the business plans to increase its export sales. The applicant's plan, which must be documented in the lender's file, should include projected export sales for the upcoming year as well as the dollar volume of export sales for the previous year.

Applicants with operations, facilities, or offices overseas, other than those strictly associated with the marketing and/or distribution of products/services exported from the U.S., are not eligible for *SBAExpress* or Export *Express*, although they may be eligible for other SBA 7(a) financial assistance.

C. What are the Use of Proceeds Requirements?

An SBA Export *Express* loan must be used to develop or expand the small business's export markets. Proceeds may be used to:

- Finance standby letters of credit used for either bid or performance bonds;
- Finance export development activities such as export marketing and promotional activities, participation in foreign trade shows, translation of product literature for foreign markets, and other activities designed to initiate or expand the applicant's

- export of its products/services from the U.S.;
- Provide transaction-specific financing for overseas orders;
- Provide revolving lines of credit for export purposes, the term of which must not exceed 7 years. (SBA recognizes that in some instances, as a normal course of business, the borrower may use portions of those revolvers for domestic purposes, but SBA expects that no less than 70 percent of the revolver to be used for export related purposes;
- Provide term loans and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets; and
- Acquire, construct, renovate, modernize, improve or expand production facilities or equipment to be used in the U.S. in the production of goods or services to be exported from the U.S.

Proceeds may not be used to finance overseas operations, except for the marketing and/or distribution of products/services exported from the U.S. Also, existing SBA guaranteed loans may not be refinanced under SBA Export *Express*.

When the SBA Export *Express* loan finances specific export transactions, the lender must determine if U.S. companies are authorized to conduct business with the proposed country. Currently, U.S. companies may not conduct business with Cambodia, Cuba, Iraq, Iran, North Korea, Laos, Libya, Sudan, or Syria, but lenders must check Ex-Im Bank's *Country Limitation Schedule*, which is presented on Ex-Im Bank's website at [www.exim.gov/country/cntlimit.html](http://www.exim.gov/country/cntlimit.html) or it is available from SBA's Office of International Trade at 202-205-7261.

The financial needs of the exporter will dictate whether a term loan, a contract loan, a revolving line of credit, or a combination of these is needed.

#### D. What are the Terms and Conditions?

The maximum SBA guarantee on an SBA Export *Express* loan is the same as that for a regular 7(a) loan, or currently 85 percent for loans of \$150,000 and under and 75% for loans over \$150,000. Also, Export *Express* loans are included in the \$250,000 maximum loan amount that may be provided to an individual borrower under SBA*Express*. Thus, the aggregate balance of all *FA\$TRAK*, SBA*Express*, Community*Express*, and Export *Express* loans to a borrower and its affiliates may not exceed \$250,000.

#### E. What are the Collateral Requirements?

The collateral requirements for Export *Express* are the same as those for SBA*Express*.

#### F. Is Technical Assistance Available?

Recognizing that technical assistance can be crucial to the success of small business exporters, SBA Export *Express* includes a technical assistance component, delivered through the U.S. Export Assistance Centers ("USEACs"). When an SBA Export *Express* loan is approved, the Sacramento Center will notify the USEAC where the borrower is located. The USEAC representative will contact the borrower to offer appropriate assistance, which may include training offered by the Export Trade Assistance Partnership, SBDC International Trade Center, SCORE, District Export Council, or Export Legal Assistance Network.

Appendix I  
U.S. Small Business Administration

Supplemental Loan Guarantee Agreement  
for Non-Eligibility Delegated SBAExpress Lenders

\_\_\_\_ (“Lender”) and the U.S. Small Business Administration (“SBA”) enter into this Supplemental Loan Guarantee Agreement (“Agreement”) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ to establish the terms and conditions for Lender’s participation in the SBAExpress Pilot Program.

For valuable consideration, the parties to this Agreement agree as follows:

1. Agreement is Supplemental

This Agreement supplements the Loan Guarantee Agreement, SBA Form 750, between Lender and SBA. All of the provisions of SBA Form 750, and the provisions of the Small Business Act, 15 U.S.C. 631, et seq., SBA Regulations, SBA Standard Operating Procedures, SBA official Notices, and the SBAExpress Program Guide all of which may be amended periodically (collectively “Participating Lender Rules”), and all of which are incorporated by reference into this Agreement, remain in effect, except as expressly modified by this Agreement.

2. Lender’s SBAExpress Authority

Lender may issue an SBA guarantee for any loan approved under SBAExpress procedures (“an SBAExpress loan”) without prior SBA credit approval by executing an SBA Authorization, provided:

- a. The loan complies with the Participating Lender Rules; and
- b. SBA reviews the loan for eligibility and assigns it an SBA loan number.

3. Review of Lender

Lender agrees to pay any authorized and applicable fees SBA or its contractor may charge for reviews of Lender files and operations. SBA is continuing to study options to fund lender review costs, but has decided that it will not initially charge non-PLP lenders approving 12 or less Express loans per SBA fiscal year for the costs of a review.

4. Changes in Lender Structure or Operations

Lender must notify SBA in writing if its structure or operations change significantly during the term of this Agreement.

5. Suspension or Revocation

SBA may suspend or revoke Lender’s eligibility to participate in the SBAExpress Pilot Program by 15-day written notice to Lender, setting forth the reasons, which may include any of the requirements and factors in the Participating Lender Rules. As of the date of the notice of proposed suspension or revocation, Lender will no longer be able to submit applications under SBAExpress procedures. Lender may file an objection to the suspension or revocation within the 15-day period as provided in the

SBAExpress Program Guide, but the suspension or revocation will become final if Lender does not object or if SBA, upon review of the objection, decides to make the suspension or revocation final. Suspension or revocation will not affect the rights, duties and obligations of Lender or SBA with respect to SBAExpress Loans previously authorized.

#### 6. Term of Agreement

This Agreement will end on the expiration of the SBAExpress pilot or \_\_\_\_\_ years from the date of execution, whichever is sooner.

#### 7. Notices

The parties must transmit any notice under this Agreement in writing by personal delivery or certified mail, postage prepaid, return receipt requested to:

SMALL BUSINESS ADMINISTRATION  
Sacramento Loan Processing Center  
501 I Street, Suite 12-100  
Sacramento, CA 95814-2322  
Attn: Richard Taylor, Center Director

LENDER

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or to any other person or address that either party designates by written notice to the other. Notice will be effective on receipt or three days after mailing, whichever is first.

#### 8. Interpretation of Agreement

- a. This Agreement and the Form 750 are the entire agreement between the parties.
- b. This Agreement supersedes all earlier agreements and understandings, both written and oral, regarding the subject matter in this Agreement.
- c. All provisions in this Agreement are severable.
- d. If any provision of this Agreement is found invalid or unenforceable, the other provisions will not be affected.
- e. Lender or SBA may choose not to insist on strict compliance with a provision of this Agreement. This will not mean that Lender or SBA waives the provision.
- f. Lender and SBA must agree in writing to any change in the Agreement.
- g. Federal law will govern this Agreement.
- h. Initially capitalized terms used but not defined in this agreement will have the meanings given them in the SBAExpress Program Guide.

#### 9. Successors and assigns.

This Agreement does not apply to successors and assigns of Lender.



**IN WITNESS WHEREOF**, the parties execute this Agreement as of the above date.

U.S. SMALL BUSINESS ADMINISTRATION  
Associate Administrator for  
Financial Assistance: James E. Rivera

(Name of Lender)  
LENDER

By: \_\_\_\_\_  
Richard Taylor  
Sacramento Loan Processing Center Director

By: \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Title)

Appendix II  
U.S. Small Business Administration

Supplemental Loan Guarantee Agreement  
SBAExpress  
for Eligibility Delegated SBAExpress Lenders

\_\_\_\_\_ (“Lender”) and the U.S. Small Business Administration (“SBA”) enter into this Supplemental Loan Guarantee Agreement (“Agreement”) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ to establish the terms and conditions for Lender’s participation in the SBAExpress Pilot Program.

For valuable consideration, the parties to this Agreement agree as follows:

1. Agreement is Supplemental

This Agreement supplements the Loan Guarantee Agreement, SBA Form 750, between Lender and SBA. All of the provisions of SBA Form 750, and the provisions of the Small Business Act, 15 U.S.C. 631, et seq., SBA Regulations, SBA Standard Operating Procedures, SBA official Notices, and the SBAExpress Program Guide all of which may be amended periodically (collectively “Participating Lender Rules”), and all of which are incorporated by reference into this Agreement, remain in effect, except as expressly modified by this Agreement.

2. Lender’s SBAExpress Authority

Lender may issue an SBA guarantee for any loan approved under SBAExpress procedures (“an SBAExpress loan”) without prior SBA credit or eligibility approval by executing an SBA Authorization, provided:

- a. The loan complies with the Participating Lender Rules;
- b. Lender certifies in its request for an SBA loan number that the applicant and the loan meet SBA’s eligibility requirements and Lender acknowledges complete liability for the loan if it later comes to the attention of SBA or Lender that the applicant was ineligible; and
- c. SBA assigns the loan an SBA loan number.

3. Review of Lender

Lender agrees to pay any authorized and applicable fees SBA or its contractor may charge for reviews of Lender files and operations. SBA is continuing to study options to fund lender review costs, but has decided that it will not initially charge non-PLP lenders approving 12 or less Express loans per SBA fiscal year for the costs of a review.

4. Changes in Lender Structure or Operations

Lender must notify SBA in writing if its structure or operations change significantly during the term of this Agreement.

5. Suspension or Revocation

SBA may suspend or revoke Lender's eligibility to participate in the *SBAExpress* Pilot Program by 15-day written notice to Lender, setting forth the reasons, which may include any of the requirements and factors in the Participating Lender Rules. As of the date of the notice of proposed suspension or revocation, Lender will no longer be able to submit applications under *SBAExpress* procedures. Lender may file an objection to the suspension or revocation within the 15-day period as provided in the *SBAExpress* Program Guide, but the suspension or revocation will become final if Lender does not object or if SBA, upon review of the objection, decides to make the suspension or revocation final. Suspension or revocation will not affect the rights, duties and obligations of Lender or SBA with respect to *SBAExpress* Loans previously authorized.

#### 6. Term of Agreement

This Agreement will end on the expiration of the *SBAExpress* pilot or \_\_\_\_\_ years from the date of execution, whichever is sooner.

#### 7. Notices

The parties must transmit any notice under this Agreement in writing by personal delivery or certified mail, postage prepaid, return receipt requested to:

SMALL BUSINESS ADMINISTRATION  
Sacramento Loan Processing Center  
501 I Street, Suite 12-100  
Sacramento, CA 95814-2322  
Attn: Richard Taylor, Center Director

LENDER

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or to any other person or address that either party designates by written notice to the other. Notice will be effective on receipt or three days after mailing, whichever is first.

#### 8. Interpretation of Agreement

- a. This Agreement and the Form 750 are the entire agreement between the parties.
- b. This Agreement supersedes all earlier agreements and understandings, both written and oral, regarding the subject matter in this Agreement.
- c. All provisions in this Agreement are severable.
- d. If any provision of this Agreement is found invalid or unenforceable, the other provisions will not be affected.
- e. Lender or SBA may choose not to insist on strict compliance with a provision of this Agreement. This will not mean that Lender or SBA waives the provision.
- f. Lender and SBA must agree in writing to any change in the Agreement.
- g. Federal law will govern this Agreement.
- h. Initially capitalized terms used but not defined in this agreement will have the meanings given

them in the SBA*Express* Program Guide.

9. Successors and assigns.

This Agreement does not apply to successors and assigns of Lender.

**IN WITNESS WHEREOF**, the parties execute this Agreement as of the above date.

U.S. SMALL BUSINESS ADMINISTRATION (Name of Lender)  
Associate Administrator for LENDER  
Financial Assistance: James E. Rivera

By: \_\_\_\_\_  
Richard Taylor  
Sacramento Loan Processing Center Director

By: \_\_\_\_\_  
(Authorized Signature)

\_\_\_\_\_  
(Name Printed)

\_\_\_\_\_  
(Title)